

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MATTHEW DONLIN,

Plaintiff,

Case No. 1:17-cv-00395-JCH-JHR

vs.

PETCO ANIMAL SUPPLIES STORES,
INC., A FOREIGN, PROFIT
CORPORATION,

Defendant.

OPPOSED MOTION TO CONTINUE TRIAL SETTING

Defendant Petco Animal Supplies Stores, Inc. (“Defendant”), moves the Court to continue the Trial currently set for February 24, 2020 at 9:00 a.m. and the related Call of the Calendar on February 6, 2020 at 1:30 p.m. The grounds for this Motion are set forth below.

1. On May 14, 2018, Defendant filed its Motion for Summary Judgment (Doc. 52), seeking dismissal of each of Plaintiff’s separate claims, including claims of disability discrimination under the Americans with Disabilities Act and the New Mexico Human Rights Act; interference with rights granted under the Family Medical Leave Act; and a state law claim of retaliatory discharge. Notice of Completion of Briefing was filed on June 18, 2018 (Doc. 57). The Court has not ruled on the Defendant’s motion for summary judgement.

2. On April 8, 2019, the Court issued an Order Setting Rule 16 Settlement Conference (Doc. 63). The Rule 16 Settlement Conference took place on June 5, 2019, the parties were unsuccessful at reaching a settlement agreement.

3. On August 7, 2019, the Court issued its Trial Notice (Doc. 66), setting Jury Selection and Trial in this case on February 24, 2020, on a trialing docket, in

Albuquerque, New Mexico. The Call of Calendar is set in this case on February 6, 2020. Under the current Pretrial Deadlines (Doc. 66-1), the parties must exchange witness lists and exhibits, submit notices of depositions to be used at trial, and file their respective Motions in Limine by January 31, 2020.

4. A ruling on Defendant's motion for summary judgment may substantially narrow the issues for trial. Such ruling may significantly alter Defendant's witnesses for trial (all of whom must travel from out-of-state), the parties exhibits and depositions to be used at trial, the nature and number of motions in limine, and the number of trial days.

5. This is the third request for extension. On January 31, 2018, the Court extended discovery deadlines and continued the trial setting (Doc. 49) after the Parties jointly moved the court for an extension to allow additional time for the Parties to conduct depositions. On April 9, 2019, the Court vacated the trial setting (Doc. 64) in light of the pending ruling on Defendant's motion for summary judgment.

6. Counsel for Plaintiff does not concur in the requested relief.

WHEREFORE, Defendant respectfully requests that the Court continue the current Trial Setting and related pretrial deadlines, to allow the court to rule on Defendants motion for summary judgment, together with such further relief as the Court deems just in the circumstances.

Respectfully submitted this 7th day of January, 2020.

/s/ R. Shawn Oller
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CERTIFICATE OF SERVICE

I hereby certify that on January 7, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and mailed a copy of the foregoing by United States Postal Service to the following if a non CM/ECF participant:

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